

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ZIGMOND BRACH, et al.,

Plaintiffs,

- against -

BENJAMIN HERBST, et al.,

Defendants.  
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NOT FOR PUBLICATION

MEMORANDUM AND ORDER  
00-CV-00473 (RRM) (KAM)

MAUSKOPF, United States District Judge.

At a conference before the court on May 28, 2008, James Klatsky, Esq., counsel for plaintiffs Eluzer Stein and Israel Newman, advised the court that, since at least October 2007, he has been unable to contact Stein, despite numerous attempts. By letter dated November 7, 2007 (Docket No. 202), Mr. Klatsky sought leave to file a motion to withdraw as counsel for Stein, citing his inability to contact or communicate with his client. On both February 6, 2008 (see Docket No. 207) and May 28, 2008, the court denied Mr. Klatsky's requests to withdraw as counsel for Stein.

Stein's claims, however, cannot proceed before this court if Stein himself fails to participate in the ongoing proceedings. Not only has the court begun setting a trial schedule for the non-arbitrable claims in this action, but the record indicates that Stein has failed to comply with numerous discovery-related orders issued by the assigned Magistrate Judge.

For the foregoing reasons, plaintiff Eluzer Stein is hereby ORDERED to show cause, in writing, on or before June 11, 2008, why the court should not dismiss his claims for failure to prosecute. If Stein fails to comply with this Order, the court shall dismiss his pending claims pursuant to Federal Rule of Civil Procedure 41(b). If, however, Stein files a written response to

this Order within the time prescribed herein, Stein shall appear, together with all defendants against whom Stein has asserted claims (James Herbst, Rhoda Herbst, Stuart Davis, Jon Lefkowitz and Cosmopolitan Capital Corporation), for a conference before the court on June 18, 2008, at 2:30 p.m.

The Clerk of the Court is directed to serve a copy of this Order on Stein at Stein's known address, which was provided by Mr. Klatsky at the court's request (Docket No. 230).

SO ORDERED.

Dated: Brooklyn, New York  
May 28, 2008

s/RRM

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ROSLYNN R. MAUSKOPF  
United States District Judge